

AMENDED IN SENATE JULY 1, 2014
AMENDED IN SENATE JUNE 10, 2014
AMENDED IN ASSEMBLY MAY 24, 2013
AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1194

Introduced by Assembly Member Ammiano

February 22, 2013

An act to amend Section 13956 of the Government Code, relating to crime victims.

LEGISLATIVE COUNSEL'S DIGEST

AB 1194, as amended, Ammiano. Crime victims.

Existing law provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law sets forth eligibility requirements and specified limits on the amount of compensation the board may award.

Existing law provides that an application for compensation may be denied if the board finds that denial is appropriate because of the nature of the victim's or other applicant's involvement in the events leading to the crime or the involvement of the person whose injury or death gives rise to the application.

This bill would, notwithstanding those provisions, prohibit an application for compensation from being denied based upon the

applicant's involvement in events leading up to the crime if the applicant was the victim of sexual assault or domestic violence, as described in specified provisions.

Existing law prohibits a person who is convicted of a felony from being granted compensation until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, if any. Existing law also prohibits compensation from being granted to an applicant during any period of time the applicant is held in a correctional institution. Existing law also requires applications of victims who are not felons to receive priority in the award of compensation over an application submitted by a felon.

This bill would exclude persons who are victims of sexual assault or domestic violence, as described in specified provisions, from these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13956 of the Government Code is
- 2 amended to read:
- 3 13956. Notwithstanding Section 13955, a person shall not be
- 4 eligible for compensation under the following conditions:
- 5 (a) An application shall be denied if the board finds that the
- 6 victim or, if compensation is sought by or on behalf of a derivative
- 7 victim, either the victim or derivative victim, knowingly and
- 8 willingly participated in the commission of the crime that resulted
- 9 in the pecuniary loss for which compensation is being sought
- 10 pursuant to this chapter. However, this subdivision shall not apply
- 11 if the injury or death occurred as a direct result of a crime
- 12 committed in violation of Section 261, 262, or 273.5 of, or a crime
- 13 of unlawful sexual intercourse with a minor committed in violation
- 14 of subdivision (d) of Section 261.5 of, the Penal Code.
- 15 (b) (1) An application shall be denied if the board finds that
- 16 the victim or, if compensation is sought by, or on behalf of, a
- 17 derivative victim, either the victim or derivative victim failed to
- 18 cooperate reasonably with a law enforcement agency in the
- 19 apprehension and conviction of a criminal committing the crime.
- 20 However, in determining whether cooperation has been reasonable,
- 21 the board shall consider the victim's or derivative victim's age,

1 physical condition, and psychological state, cultural or linguistic
2 barriers, any compelling health and safety concerns, including, but
3 not limited to, a reasonable fear of retaliation or harm that would
4 jeopardize the well-being of the victim or the victim's family or
5 the derivative victim or the derivative victim's family, and giving
6 due consideration to the degree of cooperation of which the victim
7 or derivative victim is capable in light of the presence of any of
8 these factors.

9 (2) An application for a claim based on domestic violence may
10 not be denied solely because no police report was made by the
11 victim. The board shall adopt guidelines that allow the board to
12 consider and approve applications for assistance based on domestic
13 violence relying upon evidence other than a police report to
14 establish that a domestic violence crime has occurred. Factors
15 evidencing that a domestic violence crime has occurred may
16 include, but are not limited to, medical records documenting
17 injuries consistent with allegations of domestic violence, mental
18 health records, or the fact that the victim has obtained a temporary
19 or permanent restraining order, or all of these.

20 (3) An application for a claim based on human trafficking as
21 defined in Section 236.1 of the Penal Code may not be denied
22 solely because no police report was made by the victim. The board
23 shall adopt guidelines that allow the board to consider and approve
24 applications for assistance based on human trafficking relying
25 upon evidence other than a police report to establish that a human
26 trafficking crime as defined in Section 236.1 of the Penal Code
27 has occurred. That evidence may include any reliable corroborating
28 information approved by the board, including, but not limited to,
29 the following:

30 (A) A Law Enforcement Agency Endorsement issued pursuant
31 to Section 236.2 of the Penal Code.

32 (B) A human trafficking caseworker as identified in Section
33 1038.2 of the Evidence Code, has attested by affidavit that the
34 individual was a victim of human trafficking.

35 (c) Except as otherwise provided in this subdivision, an
36 application for compensation may be denied, in whole or in part,
37 if the board finds that denial is appropriate because of the nature
38 of the victim's or other applicant's involvement in the events
39 leading to the crime or the involvement of the persons whose injury
40 or death gives rise to the application.

(1) In the case of a minor, the board shall consider the minor's age, physical condition, and psychological state, as well as any compelling health and safety concerns, in determining whether the minor's application should be denied pursuant to this section. The application of a derivative victim of domestic violence under ~~the age of~~ 18 years of age or a derivative victim of trafficking under 18 years of age may not be denied on the basis of the denial of the victim's application under this subdivision.

(2) No application for compensation may be denied based upon the applicant's involvement in events leading up to the crime if the applicant was the victim of sexual assault or domestic violence as described in Section 261, 262, 264, 264.1, 273.5, ~~285~~ 286, 288a, or 289 of the Penal Code.

(d) (1) Notwithstanding Section 13955, no person who is convicted of a felony may be granted compensation until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, if any. In no case shall compensation be granted to an applicant pursuant to this chapter during any period of time the applicant is held in a correctional institution.

(2) A person who has been convicted of a felony may apply for compensation pursuant to this chapter at any time, but the award of that compensation may not be considered until the applicant meets the requirements for compensation set forth in paragraph (1).

(3) Applications of victims who are not felons shall receive priority in the award of compensation over an application submitted by a felon who has met the requirements for compensation set forth in paragraph (1).

(4) This subdivision shall not apply to any victim of sexual assault or domestic violence as described in Section 261, 262, 264, 264.1, 273.5, 286, 288a, or 289 of the Penal Code.